

# MANKO | GOLD | KATCHER | FOX LLP

AN ENVIRONMENTAL AND ENERGY LAW PRACTICE

Nicole R. Moshang  
484-430-2324  
nmoshang@mgkflaw.com

Admitted in PA and NJ

401 CITY AVENUE, SUITE 500  
BALA CYNWYD, PA 19004  
TEL: 484-430-5700  
FAX: 484-430-5711  
WWW.MGKFLAW.COM

April 23, 2013

PHILADELPHIA, PA  
\*CHERRY HILL, NJ  
by appointment only

Via Overnight Mail

Clara Beitin  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region II  
290 Broadway, 17th Floor  
New York, NY 10007-1866

\* Partner responsible - Bruce S. Katcher

**Re: K. Hovnanian at Newark Urban Renewal Corporation III, Inc.'s Response to  
EPA 104(e) Request for Information**

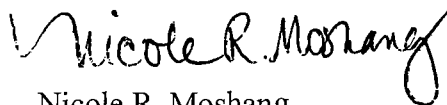
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Dear Ms. Beitin:

Enclosed please find the Response of K. Hovnanian at Newark Urban Renewal Corporation III, Inc.'s (the "Company") to the United States Environmental Protection Agency's March 13, 2013 Request for Information relating to the Canfield, M.C. Sons Site located in Newark, New Jersey, together with documents referenced in the Response and a disc containing additional documents relating to the Company's redevelopment activities in that portion of the University Heights Redevelopment Area encompassing the Site as defined in the Request.

If you have any question regarding the above, or with respect to the enclosures, please give me a call to discuss.

Very truly yours,



Nicole R. Moshang  
For MANKO, GOLD, KATCHER & FOX, LLP

NRM/mrb/10058.1007

Enclosure

cc: Marissa Truono (w/encl.) (via Overnight Mail)

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**Response of K. Hovnanian at Newark Urban Renewal Corporation III, Inc.  
to the United States Environmental Protection Agency's  
Request for Information Regarding the Canfield, M.C. Sons Site, Newark, New Jersey**

K. Hovnanian at Newark Urban Renewal Corporation III, Inc. (hereinafter "Company") hereby responds to the Information Request transmitted to the Company by the United States Environmental Protection Agency ("EPA"), under cover letter dated March 13, 2013, pursuant to Section 104(e) of the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. § 9604(e) (the "Request"). The Request seeks information and documents relating to the Canfield, M.C. Sons Superfund Site located in the City of Newark, Essex County, New Jersey (hereinafter, the "Site"). While the Request required a response by the Company within 14 calendar days of the Company's receipt of the Request, upon request, EPA extended the deadline for responding until April 23, 2013.

**General Objections and Limitations**

(1) The Company objects to the Request to the extent that it seeks information that is not in the Company's possession, custody or control. Subject to this objection, the Company has reviewed information currently available to the Company and relevant to this Request. The Company expressly states that its response to this Request is limited by the current availability of information, and reserves the right to supplement, modify and/or amend its response if new or additional information becomes available. Additionally, the Company does not routinely maintain documents or other information beyond timeframes specified in corporate records retention policies, a copy of which is provided in the records produced herewith or as otherwise required by law. Nevertheless, the Company has undertaken a thorough investigation designed to identify available existing documents and/or other information in its possession, custody or control. Such available information forms the basis for the Company's response.

(2) The Company objects to this Request to the extent documents and/or information requested seek attorney/client communications, work product or any other documents or information protected from disclosure pursuant to any applicable privilege. The Company specifically reserves all rights to assert legally recognized privileges to protect against the disclosure of information including, without limitation, the attorney-client privilege and the protection from disclosure pursuant to the work product doctrine. The Company does not waive any such right or privilege by its response to this Request, and hereby specifically asserts such privileges and protections as applicable. The inadvertent disclosure of privileged documents, or disclosure of documents labeled as privileged but initially deemed to be mislabeled, shall not waive any applicable privilege available to the Company.

(3) Based upon its review of this Request, the Company regards individual components of this Request as vague or ambiguous. By way of example, the Company objects to the Request to the extent any Request seeks information or documents relating to the "Site" as defined in the Request to include "any adjacent areas that may have been affected by

contamination from the Site.” The term “Site” as defined in the Request is overly broad, vague, and unknown by the Company. Accordingly, the Company’s responses to any Request seeking information relating to the “Site” is specifically limited to those areas defined in this Request as the Canfield, M.C. Sons Site located at 63-67 Cornerstone Lane and 52-56 Marrow Street consisting of Block 406, Lot 1 in the area of units 25.01, 25.02, 25.03, 25.10, 25.11 and 25.12 in the City of Newark.

(4) The Company further objects to this Request to the extent that any individual Request is overly broad and not reasonably calculated to lead to the revelation of relevant information pertinent to the Site, and/or that responding thereto would be unduly burdensome or expensive.

(5) The Company objects to the extent that this Request, including the “Instructions” contained therein, purports to impose on the Company obligations beyond those required under Section 104(e).

(6) Nothing in this response is intended to waive, restrict or otherwise impair any arguments or defenses to CERCLA liability or otherwise, and the Company hereby expressly preserves its right and ability to raise any and all such arguments and defenses.

### **REQUEST FOR INFORMATION**

The Company fully incorporates by reference the foregoing general objections into each of its responses to the individual Request, and will therefore not restate such objections within all individual responses. Subject to, and without waiving or limiting the foregoing objections, the Company responds to the Request as follows:

1. Answer the following questions regarding K. Hovnanian at Newark Urban Renewal III, Inc. (“K. Hovnanian at Newark”).
  - a. State the correct legal name, mailing address, state and date of incorporation, and agent for service of process in the state of incorporation and the State of New Jersey for the Company. Provide a copy of the Company’s articles of incorporation or other such documents that established the business.

### **Response:**

**K. Hovnanian at Newark Urban Renewal Corporation III, Inc., (n/k/a K. Hovnanian Port Imperial Urban Renewal, Inc.) was incorporated in the State of New Jersey on March 7, 1989. The Company’s initial registered agent for service of process was Peter S. Reinhart, Esquire at 10 Highway 35, P.O. Box 500, Red Bank, New Jersey 07701. The Company’s principal place of business is 110 West Front Street, P.O. Box 500, Red Bank, New Jersey, 07701. Pursuant to the Plan and Agreement of Merger dated April 1, 1999, the Company merged with K. Hovnanian Port Imperial Urban Renewal, Inc.,**

and was the surviving corporation, but changed its name to its current name K. Hovnanian Port Imperial Urban Renewal, Inc. via Certificate of Amendment dated April 1, 1999. The Company's Articles of Incorporation, Certificate of Merger and related Resolution/Minutes are produced herewith.

- b. State the name(s) and address(es) of the president, chief executive officer, chief operating officer, chief financial officer, and chairman of the board or other presiding officer(s) of the Company, both past and present.

**Response:**

By Company Resolution dated March 19, 1991, the following individuals were designated officers of the Company:

Kevork S. Hovnanian, Chairman  
Ara K. Hovnanian, Vice Chairman  
Conrad E. Gack, President  
John J. Schimpf, Executive Vice President (resigned March 13, 1998)  
Peter S. Reinhart, Senior Vice President (appointed Secretary and General Counsel February 10, 1997)  
Paul W. Buchanan, Senior Vice President  
Merle H. Huseh, Senior Vice President  
J. Larry Sorsby, Senior Vice President & Chief Financial Officer  
Timothy P. Mason, Senior Vice President (resigned February 10, 1997)  
Stephen M. Dahl, Vice President  
Barry T. McCarron, Vice President  
Robert Doren, Vice President

By Resolution dated January 2, 2013, the following individuals were appointed officers of the Company (n/k/a K. Hovnanian Port Imperial Urban Renewal, Inc.):

Ara K. Hovnanian, Chairman and Chief Executive Officer  
J. Larry Sorsby, Executive Vice President & Chief Financial Officer  
Marcia Wines, Vice President – Tax  
David Valiaveedan, Vice President – Finance and Treasurer  
Michael Discafani, Vice President – Corporate Counsel and Secretary  
Brad O'Connor – Vice President, Chief Accounting Officer and Corporate Controller  
Thomas J. Pellerito, Chief Operations Officer  
Joseph Riggs, Group President  
Barry McCarron, Division President  
Stephen M. Dahl, Vice President, Chief Legal Counsel

- c. Provide the names and addresses of all shareholders holding a greater than 5% share of the Company.

**Response:**

**The Company is a wholly owned subsidiary of K. Hovnanian Developments of New Jersey, Inc., which is a wholly owned subsidiary of Hovnanian Enterprises, Inc.**

- d. Identify any successor corporations or other entities related to the Company. If the Company is or was a subsidiary of another corporation, identify such other corporation and state the dates during which the parent/subsidiary relationship existed and the names and addresses of that corporation's president, chairman of the board and other officers.

**Response:**

**As noted above, the Company merged with K. Hovnanian Port Imperial Urban Renewal, Inc. on October 14, 1999, with the Company being the surviving entity. The Company changed its name to K. Hovnanian Port Imperial Urban Renewal, Inc. on November 29, 1999. The Company has been a wholly owned subsidiary of K. Hovnanian Developments of New Jersey, Inc., since its date of incorporation. K. Hovnanian Developments of New Jersey, Inc.'s officers are as follows:**

**Ara K. Hovnanian, Chairman and Chief Executive Officer  
J. Larry Sorsby, Executive Vice President & Chief Financial Officer  
Marcia Wines, Vice President – Tax  
David Valiaveedan, Vice President – Finance and Treasurer  
Michael Discafani, Vice President – Corporate Counsel and Secretary  
Brad O'Connor – Vice President, Chief Accounting Officer and Corporate Controller  
Thomas J. Pellerito, Chief Operations Officer  
Joseph Riggs, Group President  
Stephen M. Dahl, Vice President, Chief Legal Counsel**

- e. State the nature of the business of the Company.

**Response:**

**The Company was initially incorporated to initiate and conduct projects for the clearance, replanning, development and redevelopment of blighted areas of the City of Newark, and to acquire by purchase or lease property to plan, develop, construct, alter, maintain or operate housing, business, industrial, or more such types of improvement in a single project, under such conditions as to use, ownership, management and control as regulated pursuant to N.J.S.A. 40: 55C-41 *et seq.* Subsequently, the Company engaged in one other redevelopment project in West New York, New Jersey.**

- f. For each person identified in (b) above describe the duties and responsibilities of each with respect to the management, control and day-to-day operations of the entity, including any receipt and storage of hazardous substances:

**Response:**

The Company objects to this request to the extent it suggests that the Company's day-to-day operations involved the receipt and/or storage of hazardous substances, which it did not. By way of further answer, the persons identified in (b) were not involved or responsible for the direct management, control and/or day-to-day operations of the Company with respect to its activities relating to the University Heights Redevelopment Plan project. Frank Gonzalez, a former employee of the Company, was the Construction Manager for the University Heights Redevelopment Plan with responsibility for the Company's day-to-day redevelopment operations. Of the persons identified in subpart (b), Joseph Riggs, Stephen Dahl and Barry McCarron had limited knowledge of the day-to-day redevelopment activities of the Company, to the extent a matter required input from upper management.

- g. For each person identified in (b) above, state the amount and value of shares of ownership of the entity.

**Response:**

None.

2. State the dates during which the Company owned, operated or leased any portion of the Site and provide copies of all documents evidencing or relating to such ownership, operation or lease, including but not limited to purchase and sale agreements, deeds, leases, etc.

**Response:**

As noted above, the Company objects to the use of the term "Site" as defined to include "any adjacent areas that may have been affected by contamination from the Site," and its response hereto relates to the "Site" as defined in the Company's General Objection No. 3 above. The Company further objects to this request to the extent it suggests the Company conducted any business operations at the Site apart from its redevelopment activities. Subject to these objections, the Company responds that the Site as defined as Block 406, Lot 1 in the area of units 25.01, 25.02, 25.03, 25.10, 25.11 and 25.12 in the City of Newark, was part of Site C, described in the Contract for the Sale of the Land to Redeveloper between the City of Newark, Department of Development and the K. Hovnanian at Newark II, Inc., dated January 27, 1987 (hereinafter the "Redevelopment Contract"), a copy of which is produced herewith. By letter dated October 8, 1992, a copy of which is also produced herewith, the Company exercised its option to purchase

Site C, pursuant to the terms of the Redevelopment Contract. The area referred to as Site C in the Redevelopment Contract included Tax Block 403, lots 1 -10; Tax Block 404, lots 1 -4 and 6-9; Tax Block 408, lots 1, 3, 5, 7, 8, 10, 13, 17, 18, 20, 22, 24, 25, 27, 28, 33, 54, 56 -62 and Tax Block 409. Prior to acquiring the Tax Blocks and lots encompassing Site C, however, the parties to the Redevelopment Contract agreed to amend Site C to remove lots 7, 11 & 12 from Tax Block 409 and to add lots 37, 39, 41, 43, 45, 47, 49, 50, 51, 52 to Tax Block 408, as reflected in the May 18, 1992 correspondence attached hereto.

By way of further agreement, Sites C & E of the University Heights Redevelopment Plan was re-designated in its entirety as Tax Block 406 prior to the Company taking title to the Site C area pursuant to Deed issued by the City of Newark in 1993. Site C was then redeveloped by the Company into residential units (approximately 314 townhouse style units were constructed in the areas encompassing Sites C & E). The underlying property comprising the former lots of the Site would have been included by amendment to the Master Deed of Society Hill at University Heights Condominium III dated 12/20/90, who upon information and belief remains the record owner of the property today. The individual townhomes on the property were sold as follows:

- Block 406, Lot 25.01: 56 Marrow Street , purchased by Idalis Prado and Jose A. Velez from the Company on 10/28/94
- Block 406, Lot 25.02: 54 Marrow Street, purchased by Roger Ferrell from Company on 4/28/95
- Block 406, Lot 25.03: 52 Marrow Street, purchased by D'Or L. Palmer from Company on 10/21/94
- Block 406, Lot 25.10: 63 Cornerstone Lane, purchased by Rosa L. Knight from Company on 10/31/94
- Block 406, Lot 25.11: 65 Cornerstone Lane, purchased by Waltsie Lewis from Company on 10/27/94
- Block 406, Lot 25.12: 67 Cornerstone Lane, purchased by Lillie Burrell from Company on 10/27/94

3a. Please answer the following questions regarding the Company's ownership of the Site:

- a. Describe the Site at the time it was acquired. If there were any businesses at the Site at the time of acquisition or during the period of ownership, identify the nature of the businesses, where they were located, whether the building at 93 Wilsey St. was being utilized and the physical state of the building.

**Response:**

The "Site," as limited per the Company's General Objection 3 above, was part of the area designated as Site C, which was acquired for redevelopment purposes by deed from the City of Newark in 1993. At the time the area encompassing Site C was acquired, upon information and belief formed upon review of documents and reports still existing in the Company's records, any dwellings or structures previously existing within Site C had been demolished by the City of Newark prior to the date Site C was acquired by the Company, except to the extent noted in the August 1992 Environmental Assessment Report and as further detailed in response to Request No. 5 hereto, which is incorporated by reference as if set forth fully herein.

- b. Provide information regarding all demolitions or changes of any kind on, under or about the Site, its physical structures or to the property itself (e.g. excavation work);

**Response:**

The Company objects to this request to the extent it fails to limit the period of time for which information is sought to any relevant time period and fails to define the term "property" as it relates to the term "Site" as previously defined in this Request. Subject to this objection, the Company incorporates by reference its response to Request 3a (a) above as if set forth at length herein. By way of further response, prior to acquiring the University Heights Sites C and E and beginning any redevelopment activities thereon, the Company engaged J.M. Sorge, Inc. ("Sorge") to conduct a limited investigation of the Sites C and E areas in 1989, which investigations were limited to identifying and sampling tanks on privately-held parcels within Site C and E areas. Subsequent to the initial 1989 limited investigation, Sorge performed additional environmental services on behalf of the Company prior to the acquisition of the Sites C & E areas, including a preliminary or Phase I Site Assessment to identify any potential environmental problems at the proposed redevelopment area of Sites C and E.

As noted in the Sorge August 1992 Environmental Assessment Report for University Heights Sites C and E, the only dwellings noted at Tax Block 409 were as follows: (1) an abandoned dwelling on Lot 30 along Newark Street, which according to available documents reviewed and produced herewith was demolished by the City of Newark prior to the Company's acquisition of the Sites C and E areas; (2) an abandoned house on Lot 19 along Wilsey Street, which was demolished by the City of Newark on or about July 10, 1992, also prior to the Company's acquisition of the Sites C and E areas; (3) a garage fronting Wilsey Street that was being used by the City of Newark to store construction equipment and other vehicles; and (4) a church located at the corner of Wilsey and Warren Streets which is believed to still exist. By way of further answer, several underground storage tanks identified in connection with the environmental investigations performed by Sorge were removed and related soil excavated from the Sites C and E areas prior to the Company's redevelopment activities thereon as further



described in the August 1992 Environmental Assessment Report and July 1992 Interim Report prepared by Sorge, copies of which are produced herewith.

- c. Describe all investigations of the Site undertaken prior to acquiring the Site.

**Response:**

The Company objects to this request to the extent the term “investigations” is undefined and thus vague and ambiguous. Subject to this objection, with regard to any environmental investigations of the Site, prior to the Company’s acquisition of Site C, which encompasses the “Site” as defined in response to Request No. 2 herein, the Company incorporates by reference its response to Request 3a (b) above as if set forth at length herein.

- d. Describe all appropriate inquiry standards that were conducted prior to acquiring the Site; and

**Response:**

The Company incorporates by reference its response to Request Nos. 3a (b) and (c) above as if set forth at length herein.

- e. At the time of the sale of the property, was your Company aware of the former industrial use of the property?

**Response:**

The Company objects to this request as vague, confusing and ambiguous as it fails to identify the term “property” and/or whether the time period in question relates to the sale of the “property” to the Company or any subsequent sale from the Company to a private buyer. Subject to this objection, the Company was not aware of any former industrial uses of the Site, as defined in response to Request No. 2 herein at the time the Company acquired the Site in connection with its acquisition of the Site C area from the City of Newark in 1993.

3b. EPA is aware that the Company had an arrangement or “Redevelopment Contract” with the City of Newark regarding the construction of a condominium development on the Site (Society Hill at University Heights III). Describe in detail the arrangement that your Company had with the City of Newark. Include the following:

a. The nature of the arrangement, e.g., contract or other written agreements, with City of Newark and list the beginning and ending dates of each such arrangement;

**Response:**

**The Company objects to this Request to the extent the Request seeks information regarding an “arrangement” which term is undefined and thus vague, ambiguous and confusing. Subject to this objection, the Company states that K. Hovnanian at Newark Urban Renewal Corporation II, Inc. assigned all its rights and obligations with respect to the options to purchase and redevelop specific properties identified in the Redevelopment Contract to the Company. By way of further response, information requested in this Request is provided in the Redevelopment Contract, and related documents, copies of which are produced herewith.**

b. Identify the location, including the specific real estate and/or buildings, or any structures appurtenant to buildings, to which each such arrangement related;

**Response:**

**The information requested in this Request is provided in the Redevelopment Contract, and related documents, copies of which are produced herewith.**

c. State whether the Company owned the Site at the time that construction activities began at the Site, including site preparation activities, grading, excavations, and demolition of buildings. Provide all details regarding each construction activity, including:

1. Description of each construction activity;
2. Dates that the work took place; and
3. Location of the work.( provide copies of any maps, plans or drawings)

**Response c(1)-(3):**

**The Company incorporates by reference its response to Request Nos. 3a (a) and (b) regarding the activities that occurred at the Site C area, which includes the Site as defined in response to Request No. 2 herein, prior to the date the Company acquired Site C. By way of further answer, information responsive to this Request is contained in the documents produced herewith.**

d. State whether the City of Newark (“the City”) owned the Site at the time that construction activities began at the Site, including site preparation activities and demolition of buildings. Provide all details regarding each construction activity, including:

1. Description of each construction activity;
2. Dates that the work took place; and
3. Location of the work (provide copies of any maps, plans or drawings).

**Response (d) (1)-(3):**

**The Company incorporates by reference its response to Request No. 3b (c) above regarding construction activities that occurred at the Site C area, which includes the Site as defined in response to Request No. 2 herein, during the period the City of Newark owned the Site. By way of further answer, information responsive to this Request is contained in the documents produced herewith.**

e. Provide copies of all documents evidencing or relating the Company’s operation at the Site , including but not limited to, the University Heights Development Plan, written agreements, leases, etc., including any and all attachments, maps, etc.; and

**Response:**

**The Company objects to this request to the extent the Request suggests that the Company engaged in business operations at the Site. Subject to this objection, the Company produces herewith copies of documents relating to the Company’s redevelopment activities at the Site C area.**

f. Identify the person(s) at the Company who signed any agreement or other written arrangements with the City.

**Response:**

**The Company objects to this request as overbroad, vague and ambiguous as it fails to define “City” and fails to limit the information sought to the Site at issue in this Request. Subject to these objections, the Company produces herewith copies of documents relating to the Company’s redevelopment activities at the Site C area.**

4. Describe, to the best of your knowledge, the nature of the Company's operations at the Site. In addition, provide all time-periods (with specific dates) that the Company conducted operations on the Site.

- a. A brief narrative of the day to day operations on the Site;
- b. A description of how the Company handled the generation, storage, placement, disposal or treatment of hazardous substances, hazardous and industrial wastes on the Site; and
- c. Identify the individual responsible for making environmental decisions for the Company.

**Response to 4(a)-(c):**

**The Company objects to this Request to the extent the Request suggests the Company ever conducted business operations at the Site, or that its activities included the "handling, generation, storage, placement, disposal or treatment of hazardous substances, hazardous and industrial wastes on the Site," which it did not. Rather, by Resolution dated October 21, 1986, the City of Newark selected and designated the Company as the redeveloper of the University Heights Redevelopment Area in Newark, New Jersey, an area that the City had previously designated as blighted and slated for substantial targeted redevelopment efforts. The Company was charged with carrying out the City's vision to accomplish the University Heights/Redevelopment Plan, which would transform stagnant and unproductive land – previously the site of urban riots in the 1960's, into targeted and direct improvement to create new affordable housing units for City residents.**

**By way of further response, to the extent any hazardous substances, wastes or industrial wastes were encountered at the Site in connection with the environmental investigation and/or tank investigation/remediation activities at Site C, such materials were properly addressed prior to the initiation of redevelopment activities in accordance with applicable environmental laws and regulations, as referenced in the documents produced herewith.**

5. Describe the condition of the Site as it existed when the Company purchased the Site. Include but do not be limited to:

- a. Surface structures (e.g., buildings, tanks), including the contents and condition of such structures;
- b. Any and all demolitions or changes of any kind that had taken place at the Site during the time it was owned by the Company (e.g., excavation work) and state the dates on which such changes occurred, and

- c. All maps and drawings of the Site.

**Response:**

Upon information and belief formed upon review of documents and reports in the Company's possession, the condition of the Site as it existed immediately prior to the time the Company acquired Site C, is as described in the August 1992 *Environmental Assessment Report* (the "Report") prepared by Sorge, a copy of which is attached hereto.

The Report provides in pertinent part as follows:

[Describing the Environmental Setting for both Sites C and E, comprising City of Newark Blocks 403, 408, 409 and 404, 405, 406, 407:] The predominant land use within the surrounding area is residential with less than 10 percent commercial use. The sites were formerly residential tracts, however a gradual decline in the area resulted in the ultimate demolition of most of the existing structures by the City of Newark. The demolition consisted of leveling and filling the condemned portions of the site. Apparently the residential heating oil tanks were not removed from the site prior to demolition. Further, the quality of the fill material used to grade the site was not established at the time of placement.

See Page 2 of the Report.

[Describing the Site Specific Conditions for both Sites C and E, comprising all of the city blocks listed above:] Sites C and E were extensively reworked during the process of demolition of the condemned housing and leveling of the area that occurred prior to this investigation. A soil boring program indicated that fill material consisting of building rubble, fill soils, and debris had also been used during the post-demolition grading of the sites. Also examination of the older maps from the City of Newark indicated that the area underwent considerable redevelopment during the period from 1910 and 1925. A review of aerial photos of the area from 1940, 1951, 1961, and 1974 indicates that the site was relatively stable until the period of 1961 thru 1974. Much of the demolition and grading of the site occurred at that time.

See Page 3 of the Report.

[Describing the underground storage tank investigation specifically on Block 409:] Tank locations on Block 409 are illustrated on Figure 5. Three (3) heating oil tanks have been identified on this block. Tank

T409-1 is a 1000-gallon UST located near the corner of Wilsey and Academy Streets. Tank T409-2 is a heating oil tank estimated at 1500 gallons capacity, located in front of an abandoned dwelling on Lot 30 along Newark Street. Tank T409-3 is a 275-gallon heating oil tank that was formerly located in the rear basement of an abandoned house on Lot 19 along Wilsey Street. The house was demolished on or about July 10, 1992, with the tank still in the basement. The tank was subsequently excavated from the rubble and removed from the basement and placed a short distance from the former house, under the supervision of JMS [Sorge] personnel. The tank was observed to be empty of product and in good condition at the time of removal.

*See Page 7 of the Report.*

[Describing contaminated soil areas on Block 409:] Seven (7) samples were collected from Block 409 (Figure 5). Six (6) borings were installed on vacant areas of the block surrounding the church located on the corner of Warren and Wilsey Streets. Samples 409-1 through 409-6 were collected from the 10.5 to 11.0 foot depth range, and analyzed for PHC [petroleum hydrocarbons]. The laboratory report indicates that no PHC compounds were detected above the analytical Method Detection Limit. One sample, 409-8, was collected from a trench installed along the wall of a garage fronting on Wilsey Street. The garage is currently being used by the City of Newark to store construction equipment and other vehicles. The sample was collected from the 3.5 to 4.0 foot depth interval, and analyzed for PHC and VO+15 [an extended list of volatile organic compounds]. While trace amounts of each parameter were detected, the results were far below the applicable standards. Refer to Table 4 and Appendix B for sample results summaries.

Despite the presence of extensive construction debris on the vacant portion of the block covered by samples 401-1 through 409-6, the exploratory program did not encounter any chemical contamination associated with the physical debris.

Based on the results of the soil sampling program conducted on this block, no additional soil removal is deemed necessary beyond that involved with the tank removal program.

*See Page 11 of the Report.*

Please refer to the Figures 2 and 5 within the Report on page 22 (the page itself is not numbered, but is stamped with Bates No. KHOV005884) and page 25 (Bates No. KHOV005887). Figure 5 shows the buildings that were still standing on Block 409 in

**August 1992 in dark outline. At the time, there appear to have been three buildings left facing Wilsey Street: (1) the church on the corner of Warren and Wilsey Streets; (2) a small structure, in the middle of the block, which appears to be the abandoned house on Lot 19 referenced in the narrative above as being demolished by the City of Newark immediately prior to the investigation; and (3) a larger structure closer to Academy Street (with P409-1 written in the middle of it), which according to the narrative above is likely the garage used by the City of Newark to store construction equipment and other vehicles.**

**The Company has not located any large-scale maps or drawings of the Site in its files.**

6. Provide details regarding any soil excavation of the Site during the redevelopment of the property.

- a. Was soil excavated from the Site during the development of the property;
- b. Was excavated soil moved from the excavation area;
- c. Manner and place of disposal and/or storage of excavated soil;
- d. Was excavated soil stockpiled and used to regrade the Site during redevelopment;
- e. Was excavated soil removed from the Site;
- f. Amount of soil excavated;
- g. Location of the excavation(s);
- h. the date(s) of the soil excavation(s);
- i. [not provided]
- j. The reason for the excavation;
- k. Identity of the person(s) who excavated or removed the soil;
- l. Whether the excavated soil or removed soil contained hazardous substances;
- m. All analyses or tests and results of analyses of the soil that was removed from the Site;
- n. The ultimate disposal location of the excavated materials; and

- o. All persons, including contractors, with information about the answers to this question.

**Response:**

The Company has searched for documents relating to any soil excavations at the Site, as defined in response to Request No. 2 above, and produced herewith copies of such documents relating to the excavation of soil in connection with its redevelopment of Sites C and E. Due to the fact that some of the documents that were located are scarcely legible, and that those that are legible do not provide detailed information about the location, amount, removal, or ultimate disposal location of the soil that was excavated, the Company is unable to answer all of the questions above in detail. By way of further response, however, soil excavation performed at Sites C and E for the installation of trenches was performed by Milltown Drilling & Excavation, Inc. Those trenches were used by JM Sorge, Inc. to collect soil samples from multiple locations at Sites C and E for the purpose of conducting an environmental assessment.

Also attached hereto is a July 1992 *Interim Report* prepared by Sorge, which includes a Waste Classification Request Form and correspondence between Sorge and the New Jersey Department of Environmental Protection (the "Department") regarding the Waste Soil Classification Sampling Plan to be used to evaluate waste soils from Sites C and E. A May 2, 1990 letter from Sorge to the Department (see the pages labeled with Bates Nos. KHOV005732-36) indicates that the total volume of waste soil was 15,500 cubic yards, and further that the "waste soil was the result of leakage from a group of underground storage tanks discovered during the early construction/site preparation phase of the project." That letter also indicates that thirty separate waste characterization samples taken from Sites C and E, each representing approximately 500 cubic yards of soil, would be sampled for a number of parameters, including EP-toxicity metals and Total Petroleum Hydrocarbons. Due to the fact that the soil was contaminated by virgin petroleum fuels associated with improperly-abandoned underground storage tanks, lead was not a contaminant of concern at Sites C and E. In fact, the *Interim Report* only notes one instance in which the lead results were noteworthy, as follows:

Sample SS-3 contained lead at a concentration slightly exceeding the regulatory level. In order to verify this unexpected result, a second composite sample, designated SR-3, was collected from the original SS-3 area. Sample SR-3 contained no detectable quantities of leachable lead. The laboratory analytical report for Sample SR-3 follows that of the original samples.

(See the *Interim Report* pages labeled KHOV005741.) The Waste Soil Classification Sampling Plan was accepted by the Department, with some modifications, by letter dated May 10, 1990. (See the *Interim Report* pages labeled KHOV005738-39.) The



**analysis of soil samples is provided in the August 1992 *Environmental Assessment Report*.**

7. State the date when the building located at 93 Wilsey Street was demolished and by whom. In addition, respond to the following;
- a. State whether permits were obtained. If yes, provide copies of all permits;
  - b. Identify who dismantled the equipment and removed it from the building;
  - c. State what was done with the equipment after it was removed;
  - d. State what was done with the leftover product and waste materials; and
  - e. State what was done with the building debris after the demolition.

**Response:**

**The Company has conducted a diligent search for any documents and reports in the Company's possession that reference a structure and/or dwelling that may have been located at 93 Wilsey Street, and did not locate any documents relating to the referenced address, dwelling or structure or demolition activities thereon.**

**Based on the absence of references in its documents and/or reports to the address or structure/dwelling, the Company concludes that the historic presence of an industrial activity under the name of Canfield M.C. Sons was unknown to the Company and to the City of Newark representatives who were involved in the redevelopment effort. Further, if any structures or conditions remained to suggest the Site's former industrial use (such as equipment, tanks, materials, or a smokestack), those conditions would have been noted in the August 1992 *Environmental Assessment Report* (the "Report") prepared by Sorge and would have been investigated and addressed. The Report mentions no such conditions or industrial uses on Block 409, lot 22 or lot 31. Finally, it appears that the presence of this industrial activity was also unknown to the New Jersey Department of Environmental Protection ("the Department"), given that the records request made by USA Today to the Department pursuant to the New Jersey Open Public Records Act, N.J.S.A. §47:1A-1 *et seq* ("OPRA"), for any documents about the Site resulted in no responsive records being identified. A copy of USA Today's OPRA request and the response are available at <http://usatoday30.usatoday.com/news/nation/smeltng-lead-contamination/index#sites/214>.**

**By way of further answer, the Company's response to Request No. 5 is incorporated herein by reference as if set forth fully herein.**

8. Did the Company conduct any assessments or investigations of hazardous substances or hazardous wastes at the Site, including, but not limited to, soils at the Site? If yes,

- a. Identify any environmental contractors and consultants your Company retained;
- b. Provide the date(s) any and all assessments were performed; and
- c. Provide copies of any documents issued by the Company's contractors or consultants that related to the results of sampling, assessment and/or recommended remediation at the Site.

**Response:**

**In connection with its redevelopment of Site C, which included the Site as defined in response to Request No. 2 herein, the Company performed certain environmental investigations which allowed for the following: (1) identifying and removing all underground storage tanks and associated contaminated soil; (2) conducting soil testing as necessary to determine the quality of fill for the redevelopment of Sites C and E; (3) supervising the removal of contaminated soils [associated with underground storage tanks that were not removed from residences prior to demolition] and conducting post-excavation confirmatory sampling; and (4) document the testing and cleanup conducted of Sites C and E. See page 1 of the Report. In connection with those investigations, laboratory analyses for hazardous substances were conducted. Please refer to the tables and appendices of the Report for complete testing data.**

9. List any hazardous substances that were present on the Site when the Company acquired the Site. Describe the location and amount of each hazardous substance and how or whether it *was* contained at the Site.

**Response:**

**The Company incorporates by reference its response to Request No. 8 as if set forth fully herein.**

10. When and how did you first know or have reason to know that wastes containing hazardous substances, were or may have been generated, treated, stored or disposed of at the Site?

- a. Did you take any measures to abate and/or stop the contamination? If so, explain in detail.

- b. Did you notify anyone of the contamination? If so, explain in detail.

**Response:**

**The Company objects to this Request to the extent it suggests wastes containing hazardous substances were or may have been generated, treated, stored or disposed of at the Site prior to the time the Company acquired Site C, which included the Site, as defined in response to Request No. 2 above. Subject to this objection, based on the results of the environmental investigation performed prior to and at the time that the Company acquired the Site, the Company did not know or have reason to know that any hazardous wastes were or may have been generated, treated, stored or disposed of at the Site. As stated in the Report, “[a] great deal of trash has been dumped on the surface of the site over the years. This trash consists mainly of domestic garbage and automobile parts. Nothing of a serious hazardous nature (e.g. drums, industrial waste, etc.) was found on the sites.” See page 3 of the Report.**

11. Please explain the relationship between K. Hovnanian at Newark and the following entities:

- a. K. Hovnanian Port Imperial Urban Renewal Inc.;
- b. K. Hovnanian Enterprises Inc.;
- c. Hovnanian Enterprises Inc.; and
- d. K. Hovnanian Developments of New Jersey, Inc.

**Response 11 (a)-(c):**

**The Company incorporates by reference its response to Request No. 1(a) and (d) above as if set forth fully herein as it relates to the relationship between the Company and the entities set forth in subparts a, c and d above. With respect to the entity identified in subpart b as K. Hovnanian Enterprises Inc., said entity is a separate and distinct subsidiary of Hovnanian Enterprises Inc., the corporate grandparent of the Company. Accordingly, the Company is merely an affiliated entity of K. Hovnanian Enterprises Inc.**

Pursuant to the authority in Section 104(e)(2)(C) of CERCLA, 42 U.S.C. § 9604(e)(2)(C), EPA may require any person to furnish information relating to the ability, of a person to pay for or to perform a cleanup. Therefore, please answer all of the following questions.

13. Describe the financial situation of the Company and supply the following financial documentation regarding the Company's ability to pay for the cleanup: all financial statements of the Company from 2007 to the present, corporate and individual statements for

all of the Company's present and past owners operators, partners, and shareholders who are or have been active participants in the operation of the Company. If the Company is no longer active, provide information and documentation requested above for the last five years of operation. If the Company filed for bankruptcy, provide all filings that document the claim and the status and/or resolution of the bankruptcy.

**Response:**

**The Company ceased ongoing redevelopment activities in or about 1998 upon completion of certain residential developments within blighted areas of the City of Newark. The Company's financial statements are consolidated with Hovnanian Enterprises, Inc. Copies of the past five (5) years of financial statements for Hovnanian Enterprises, Inc., which include the Company's financial statements, contain Confidential Business Information and are being marked accordingly to be produced in a supplemental production.**

14. Provide signed copies of the Company's last five years of federal tax returns including all schedules and attachments thereto. In addition, supply any and all income tax audits or audit adjustments for the years 2007 to the present. Also provide audited financial statements for the last five years. If audited statements are not available, include unaudited statements. If the Company is no longer active, provide the information and documentation requested above for the last five years of operation.

**Response:**

**The Company files its tax return on a consolidated basis with Hovnanian Enterprises, Inc. Copies of the tax returns for Hovnanian Enterprises, Inc., which includes the Company's tax return, contain Confidential Business Information and are being marked accordingly to be produced in a supplemental production. The Company has no audited or unaudited financial statements for the last five (5) years.**

15. State the name and address of any business in which the Company holds or previously held an ownership interest. For each business, state the type of business, the Company's ownership interest (shareholder, sole proprietor, etc.), the date the Company obtained the interest in the business, the value of the entire business, the value of the Company's interest in the business, the name and address of each bank at which the business holds any bank accounts, certificates of deposit, or other financial instruments, or from which the business has borrowed money.

**Response:**

**The Company objects to this request in that it uses the term "business" which is undefined. Notwithstanding that objection, the Company interprets the term "business" as used in**

**this question as an entity engaged in commerce for the purpose of financial gain. The Company does not, and has not, owned any interest in any business.**

16. List all assets the Company owns either separately or jointly with any other individual or company including any ownership interests in real property, income from rental property, stocks, bonds, securities and bank accounts during the past five years. State:

- a. The address and legal description of the asset.
- b. The value of the asset and the manner which was used to value each asset.
- c. For each parcel of real property owned, provide a description of each structure and other improvements on the real property. Describe and value all encumbrances on each such property.
- d. For each such asset which is an account with a financial institution, provide the account number, and the name, address, and telephone number of the institution.
- e. Identify each person or business, other than the Company, with an ownership interest in each such asset.

**Response:**

**The Company does not own, either individually or jointly with another entity, any assets and has not owned any assets within the past five (5) years.**

17. Are there currently or have there ever been any insurance policies in effect that may indemnify your Company against any liability that it or any entity may incur in connection with the release of any hazardous substance at the Site? If your answer is in the affirmative, please provide a copy of the policy. For any policy that you cannot locate or obtain, provide the name of the carrier, years in effect, nature and extent of coverage, and any other information you have.

**Response:**

**The Company objects to this Request to the extent it suggests the Company has any liability in connection with the release of any hazardous substance at the Site. Subject to this objection, copies of insurance policies issued to the Company during the redevelopment activities referenced herein are produced herewith.**

18. Did or does there exist any agreement or contract (other than an insurance policy) that may indemnify your Company or may require your Company to indemnify another person or any entity, against any liability your Company or any entity may incur in

connection with a release or threatened release of a hazardous substance at the Site? If your answer to this question is in the affirmative, please provide a copy of all such agreements or contracts.

**Response:**

**In its written contracts with unrelated third parties involved with the Company's activities to construct residential developments within blighted areas of the City of Newark, it would have been customary for some of those written contracts to contain an indemnification provision. At this time, identification and review of those contracts is ongoing to determine if any of those contracts can be located, and if so, whether those contracts include an indemnification provision which are still in effect, and if so, whether the indemnification provision requires that the Company indemnify an unrelated third party, or require the unrelated third party to indemnify the Company, in connection with a release or threatened release of a hazardous substance at the Site.**

19. Identify each individual who assisted or was consulted by you or in the preparation of the response to this Request for Information and specify the question to which such consultation or assistance was provided.

**Response:**

**The Responses to this Request were prepared by counsel upon review of documents in the Company's possession, custody and control, including, but not limited to the documents produced herewith. By way of further response, Michael Discafani provided information relating to the Company in response to Request Nos. 1, 11, and 13-16. Stephen M. Dahl assisted in providing information responsive generally to this Request by reference to information obtained from the following documents produced herewith:**

**Record Management Policy and Procedures Document, May 23, 2005  
Articles of Incorporation, Certificate of Merger and related Resolution/Minutes  
Resolution of the City of Newark, October 21, 1986  
Contract for the Sale of Land to Developer, January 1987  
Letter to Honorable Sharp James, October 8, 1992  
Environmental Assessment Report, August 1992  
Interim Report, July 1992  
Letter from Sorge, April 28, 1992  
Letter to Hocking, May 18, 1992**

CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION

State of NEW JERSEY

County of MIDDLESEX

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Request for Information) and all documents submitted herewith, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

STEPHEN M. DAHL

NAME (print or type)

VICE PRESIDENT

TITLE (print or type)

[Signature]

SIGNATURE

Sworn to me before this

22nd day of April, 2013

Elizabeth M. Ferrari  
Notary Public

Elizabeth M Ferrari  
Notary Public  
New Jersey  
My Commission Expires 10-31-16